C.R.1222 of 2007

HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.R.1222 of 2007
Date of decision : 06.03.2007

Balbir Singh and others **.....Petitioners**

versus

Manjit Kaur and others **.....Respondents**

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present: Ms.Harpreet Kaur Dhillon, Advocate for the petitioners

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ORDER

HEMANT GUPTA, J.

The challenge in the present revision petition is to the order passed by the learned trial Court dated 18.1.2007, whereby defence of the defendants was struck off for not filing the written statement.

It has been found by the learned trial Court that the defendants were permitted to join proceedings subject to payment of Rs.500/- as costs each. But in spite of 4 opportunities granted to the defendants for filing the written statement thereafter neither the costs were paid nor the written statement was filed.

Learned counsel for the petitioners states that the case is now fixed for evidence of the plaintiff for 16.3.2007 and states that if one opportunity is given to the defendants to file the written statement on the date fixed i.e. 16.3.2007, the defendants shall compensate the plaintiffs on account of delay in filing the written statement.

Keeping in view the principle that the party should be permitted to contest the lis on merits, I deem it appropriate to grant one opportunity to the defendants to file written statement on 16.3.2007 subject to payment of Rs.5000/- as cost. Such cost is inclusive of the cost earlier imposed by the learned trial Court. If the cost is paid and the written statement is filed on the date fixed i.e. 16.3.2007, the learned trial Court will proceed with the suit on merits. However, if the defendants fail to file the written statement or to pay the cost on 16.3.2007, the defence of the defendants shall remain struck off.

Civil revision stands disposed of accordingly.

(HEMANT GUPTA)
JUDGE

March 6, 2007
**mohinder*